Appl. No. : 10/632,688
Filed : August 1, 2003

REMARKS

Claims 1-10 remain pending in the instant application. No amendments have been made. Applicants respond below to the specific rejections set forth in the Office Action mailed October 8, 2004.

Rejection under 35 U.S.C. §112, first paragraph – Enablement

The Examiner has rejected Claims 1-10 under 35 U.S.C. § 112, first paragraph, because while the specification is enabling for *treating* fungal infections, allegedly the specification does not reasonably provide enablement for *preventing* fungal infections. The Examiner also argues that no compound has ever been found to treat all fungal infections generally, and that proof must be provided to support treatment of all fungal infections.

Applicants first address the Examiner's argument that *preventing* fungal infections is not enabled by the specification. The specification at paragraph [0275] describes a Minimum Inhibitory Concentration assay that was performed. The paragraph states in relevant part, "[t]he minimum inhibitory concentration (MIC) at which a compound *prevented* the growth of the target microorganism was assessed according to the modified version of the NCCLS protocol" (emphasis added). The paragraph also describes the determination of minimum fungicidal amounts of the compounds. Thus, specification teaches the skilled artisan how to use the compounds and compositions to *prevent* fungal growth and infection, as those terms are used in Applicants' specification. The use of the instant compound to *prevent* a fungal infection is shown and based upon the specification as filed.

Also, the Examiner has argued that the claims directed to treating and/or preventing fungal infections, generally are not enabled. Applicants respectfully disagree. The specification describes compositions and methods of using the compounds and compositions against a wide variety of fungi that supports and enables the scope of the instant claims. As one example, Example 31 describes the evaluation of antimicotic activity. Antimicotic activity was described or shown against various fungi, including, *Candida*, *Aspergillus*, *Trichophyton*, *Epidermophyton*, *Microsporum*, *Botrytis*, *Beauveria*, *Helminthosporium*, and *Saccharomcyces*. Also, Example 30 describes other fungal assays that might be used. Thus, Applicants have taught the skilled artisan how to use the claimed methods and compositions against a variety of differing fungi. The

teachings in the specification coupled with the level of skill in the art provide enablement that is commensurate with the scope of the claims.

For the reasons set forth above, Applicants request reconsideration and withdrawal of the instant enablement rejection.

CONCLUSION

In view of the above, Applicants respectfully maintain that claims are patentable and request that they be passed to issue. Applicants invite the Examiner to call the undersigned if any remaining issues may be resolved by telephone.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 2-7-05

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